

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO.6086 OF 2014

Bhaskar S/o Ambadas Shinde
age: 55 years, occu: Agriculture,
R/o Shivni, Tq. & Dist. Beed

...PETITIONER

VERSUS

1. Union of India,
Through: Its Secretary –
Railway Department
Bombay 400 001
- 2 The General Manager,
Central Railway,
Chhatrapati Shivaji Terminus
Mumbai 400 001
- 3 The Deputy Chief Engineer
(Construction) Central Railway
Pune 411 001
- 4 The Deputy Collector,
Land Acquisition, J.P.
Beed.

...RESPONDENTS

.....
Mr. V.D. Salunke Advocate for petitioner
Mr. A.V.Deshmukh, A.G.P. for State
Mr. M.N. Navandar advocate for respondent Nos.1 to 3.
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WRIT PETITION NO.6091 OF 2014

Rohidas S/o Balu Rathod,
Age: 55 years, occu: Agriculture,
R/o Pachegaon, Tq. Georai,
Dist. Beed

..PETITIONER

VERSUS

1. The State of Maharashtra,
through its Secretary
Revenue Department,
Mantralaya, Mumbai 32
- 2 The District Collector,
Beed
- 3 Sub-Divisional Officer,
Sub-Division Office, Beed
- 4 The Executive Engineer,
Beed Irrigation Division,
Beed.

...RESPONDENTS

.....
Mr. V.D. Salunke Advocate for petitioner
Mr. A.V.Deshmukh, A.G.P. for State

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CORAM: T.V. NALAWADE J.

DATED : 15th February, 2019.

ORAL JUDGMENT

1 Heard.

2 Rule. With the consent of the parties, petitions are taken-up for final decision.

3 Both the petitions are filed to challenge the Notices issued by the Special Land Acquisition Officer (SLAO), by which demand for depositing the deficit Court fees was made by the SLAO in respect of two References filed by the petitioners.

4 The submissions made by the learned counsel for the

petitioners show that nominal court fees was paid but the Court fees on the amount of compensation mentioned in the Reference was not paid.

5 Learned counsel for the petitioners placed reliance on the observations made by the Apex Court in case of **Kashi Ram Namdeo versus State of Maharashtra (1997 (supp) Bom.C.R. 781)**. In that case the Apex Court had laid down that the petitioner need not to pay the Court fees when Reference is filed before the Land Acquisition Officer.

Learned counsel for the respondents placed reliance on the clarification made by the Apex Court subsequently i.e. on 10.11.1997 by which the Apex Court made it clear that while issuing the previous order dated 31.10.1995, the Court had no intention to override the effect of Article 15 of Schedule-I of the Bombay Court Fees Act, 1959. The Apex Court has made it clear that wherever that provision applies, they need to be complied with and Court fees be paid accordingly.

6 Due to the present petitions, peculiar situation has been created. Though the Court has power to extend the period for payment of Court fees as mentioned in Section 148 CPC, that period is limited to 30 days. In normal course, the petitioners ought to have deposited the Court fees at least after demand made by the SLAO,

as the necessary Court fees was not deposited. As per aforesaid legal provision, it can be said that the petitioners were under misconception and they came to this Court and due to that the Reference was not sent to Reference Court by the aforesaid authority from 2012 till today.

7 Learned counsel for respondents submitted that these circumstances need to be considered if this Court is inclined to grant permission to petitioner to deposit the Court fees. He submitted that unnecessarily burden of paying interest at huge rate will be imposed on the acquiring body for the period 2012 to 2019, and as aforesaid situation is created by the petitioners, the respondents can not be required to pay interest in respect of the amount of compensation, if at all compensation is enhanced.

8 There is force in the aforesaid submission. Only because the petitioners are agriculturists and there is possibility that there was misconception and due to that they took step like to come to this Court, this Court holds that opportunity deserves to be given to them to deposit deficit Court fees within 30 days from today.

9 Both the petitions are partly allowed.

10 The petitioners are permitted to deposit the deficit Court fees

before the authority who had issued notices, within 30 days from today, failing which the proceedings are to be treated as not filed in time. If the deficit Court is paid and references are referred to the Reference Court, in that case, the petitioners will not be entitled to claim interest on the enhanced amount of compensation from the date on which the Court fees ought to have been paid till the date of payment of Court fees.

11 Rule is made absolute in the aforesaid terms. Petitions are disposed of.

(T.V. NALAWADE)
JUDGE

vbd